

NOTICE

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 2010AP826
(L.C. No. 2005CV2885)

STATE OF WISCONSIN

:

IN SUPREME COURT

Marco A. Marquez,

Plaintiff-Respondent-Cross-Appellant,

v.

Mercedes-Benz USA, LLC,

Defendant-Appellant-Cross-Respondent.

FILED

JUL 2, 2012

Diane M. Fremgen
Clerk of Supreme Court

MOTION for reconsideration. *Reconsideration denied.*

¶1 PER CURIAM. On June 5, 2012, Plaintiff-Respondent-Cross-Appellant, Marco A. Marquez, filed a motion entitled "Motion for Clarification/Reconsideration" regarding Marquez v. Mercedes-Benz USA, LLC, 2012 WI 57, ___ Wis. 2d ___, ___ N.W.2d ___, seeking "instruction to the circuit court regarding an award of Marquez's reasonable appellate attorney fees," pursuant to Wis. Stat. § 218.0171(7).

¶2 Mercedes-Benz USA, LLC, has not responded or objected to Marquez's motion.

¶3 Wisconsin Stat. § 218.0171(7) (2009-10) provides in relevant part that "[t]he court shall award a consumer who prevails in such an action twice the amount of any pecuniary loss, together with costs, disbursements and reasonable attorney fees, and any equitable relief the court determines appropriate."

¶4 "Reasonable attorney fees" available to a prevailing consumer under Wis. Stat. § 218.0171(7) include attorney fees for appellate work. Kilian v. Mercedes-Benz USA, LLC, 2011 WI 65, ¶58 n.22, 335 Wis. 2d 566, 799 N.W.2d 815 (quoting Chmill v. Friendly Ford-Mercury of Janesville, Inc., 144 Wis. 2d 796, 809, 424 N.W.2d 747 (Ct. App. 1988)).

¶5 Accordingly, we clarify the decision as follows:

¶6 The disposition is amended to read as follows:
"Affirmed and remanded."

¶7 Paragraph 123 is amended to read as follows: "For the reasons stated, we affirm the circuit court's judgment and order and remand the cause to the circuit court to determine reasonable attorney fees pursuant to Wis. Stat. § 218.0171(7)."

¶8 The mandate line is amended to read as follows: "*By the Court.*—The judgment and order of the circuit court are affirmed and the cause is remanded to the circuit court."

¶9 *By the Court.*—The motion for reconsideration is denied without costs.

